
STATUTORY INSTRUMENTS

1995 No. 1442

**The Credit Institutions (Protection
of Depositors) Regulations 1995**

Part IV

Amendments of Part IV of 1986 Act

Payments to investors

40.—(1) For subsections (1) and (2) of section 27 of the 1986 Act⁽¹⁾ (payments to investors) there shall be substituted the following subsections—

“(1) Subject to the following provisions of this section, if at any time a participating institution becomes insolvent, the Board—

(a) shall as soon as practicable pay out of the Fund to persons who have at that time protected investments in the institution which are due and payable amounts equal to 90 per cent of their protected investments; and

(b) shall in any event secure that, before the end of the relevant period, it is in a position to make those payments as soon as they fall to be made.

(2) If at any time a participating institution ceases to be insolvent, subsection (1) above shall cease to apply in relation to that institution.

(2A) In subsection (1) above “the relevant period” means—

(a) the period of three months beginning with the time when the institution becomes insolvent; or

(b) that period and such additional period or periods, being not more than three and of not more than three months each, as the Commission may in exceptional circumstances allow.”

(2) In subsection (3) of that section, for the words “insolvent building society” there shall be substituted the words “insolvent participating institution”.

(3) After that subsection there shall be inserted the following subsections—

“(3A) The amount of any payment which falls to be made under subsection (1) above in respect of a protected investment made with an office of a building society in another EEA State shall not exceed such amount as the Board may determine is or would be payable, in respect of an equivalent investment or deposit made with an institution authorised in that State, under any corresponding scheme for the protection of investors or depositors which is in force in that State.

(3B) Where the Board is satisfied that an investor has received or is entitled to receive, under any home State scheme, a payment in respect of a protected investment made with a United Kingdom office of a participating EEA institution, the Board shall deduct an amount

⁽¹⁾ 1986 c. 53; section 27 was amended by the Banking Act 1987 (c. 22), section 108(1) and Schedule 6, paragraph 26(3) and by the Building Societies Investor Protection Scheme (Maximum Protected Investment) Order 1987 (S.I. 1987/1349), article 2.

equal to that payment from the payment that would otherwise be made to the investor under subsection (1) above.”

(4) In subsection (4) of that section, for the word “society's” there shall be substituted the word “institution's”.

(5) For subsection (5) of that section there shall be substituted the following subsections—

“(4A) There shall be deducted from any payment to be made by the Board under subsection (1) above in respect of a protected investment any payment already made in respect of that investment by a liquidator of the institution; and in this subsection, in relation to an institution formed under the law of a country or territory outside the United Kingdom, the reference to a liquidator includes a reference to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator.

(5) For the purposes of this section in its application in relation to a participating institution which has become insolvent—

(a) a person has at any time a protected investment in the institution if he has a deposit with the institution in an EEA currency or, in the case of a building society or Irish building society, a share in the society; and

(b) his protected investment is the total liability of the institution to him, limited to the maximum mentioned in subsection (5A) below, which is referable to sums deposited with the institution or, in the case of a building society or Irish building society, to shares in the society.

(5A) The maximum is £20,000 or the sterling equivalent of 22,222 ecus immediately before the institution became insolvent, whichever is the greater.

(5B) In calculating a person’s protected investment for the purposes of subsection (5) above, the amount to be taken into account as regards any deposit made in another EEA currency shall be its sterling equivalent immediately before the time when the institution became insolvent, or the time when the investment became due and payable, whichever is the later.

(5C) In its application to a participating EEA institutions, subsection (5) above shall have effect as if any reference to a deposit with, or sums deposited with, the institution were a reference to a deposit with or sums deposited with, a United Kingdom office of the institution.”

(6) In subsection (6) of that section—

(a) in paragraph (a), for the words “subsection (2)” there shall be substituted the words “subsection (1)” and for the words “such other percentage” there shall be substituted the words “such greater percentage”; and

(b) for paragraph (b) there be substituted the following paragraph—

“(b) amend subsection (5A) above so as to substitute for either sum for the time being specified in that subsection such greater sum as may be specified in the order.”

(7) For subsections (8) and (9) of that section there shall be substituted the following subsections—

“(8) In determining whether a person has a protected investment in a participating institution and the amount of it there shall be disregarded—

(a) any deposit or shares which are own funds within the meaning given by Article 2 of Directive [89/299/EEC\(2\)](#);

- (b) any deposit made or share acquired by a credit institution on its own behalf and for its own account;
- (c) any deposit or share which the Board is satisfied was made or acquired in the course of a money-laundering transaction;
- (d) any deposit by a person mentioned in item 1 or 2 of Annex I to Directive [94/19/EC](#)⁽³⁾ which was made otherwise than as trustee for a person not so mentioned;
- (e) any deposit, security or liability which falls within item 10 or 12 of that Annex; and
- (f) in the case of an institution which has ceased to be a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the scheme established by the protective scheme provisions, any deposit made with the institutions after it ceased to be a such an institution.

(8A) Paragraph (b) of subsection (8) above has effect subject to the provisions of Schedule 6 to this Act; and a transaction in connection with which an offence has been committed under—

- (a) any enactment specified in a regulation 2(3) of the Money Laundering Regulations 1993⁽⁴⁾; or
- (b) any enactment in force in another EEA State, or in a country or territory outside the European Economic Area, which has effect for the purpose of prohibiting money laundering within the meaning of Article 1 of Directive [91/308/EEC](#)⁽⁵⁾,

is a money-laundering transaction for the purposes of paragraph (c) of that subsection at any time if, at that time, a person stands convicted of the offence or has been charged with the offence and has not been tried.

(9) In determining what is a protected investment of an investor, no account shall be taken of any liability unless—

- (a) proof of the debt, or a claim for repayment of the investment, which gives rise to the liability has been lodged with a liquidator of the institution; or
- (b) the investor has provided the Board with all such written authorities, information and documents as, in the event of a liquidator being appointed, the Board will need for the purpose of lodging and pursuing, on the investor's behalf, a proof of the debt, or a claim for the repayment of the investment, which gives rise to the liability.

(9A) In subsection (9) above, in relation to an institution incorporated in or formed under the law of an EEA State other than the United Kingdom—

- (a) references to a liquidator include references to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator; and
- (b) references to the lodging, or the lodging and pursuing, of a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability include references to the doing of an act or acts which appear to the Board to correspond as nearly as may be to the lodging, or the lodging and pursuing, of such a proof or claim.”

(8) In subsection (10) of that section—

- (a) for the words “building society” there shall be substituted the words “participating institution”; and

(3) O.J. L135, 31.5.94, page 5.

(4) S.I. 1993/1933.

(5) O.J. L166, 28.6.91, page 77.

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- (b) for the words “the society”, in both places where they occur, there shall be substituted the words “the institution”.
- (9) In subsection (11) of that section, for the words “building society” there shall be substituted the words “participating institution”.